

**Department of State  
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Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

## Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

<b>Agency/Board/Commission:</b>	Tennessee Wildlife Resources Agency
<b>Division:</b>	Boating and Law Enforcement
<b>Contact Person:</b>	Chris Richardson
<b>Address:</b>	PO Box 40747, Nashville, TN
<b>Zip:</b>	37204
<b>Phone:</b>	615-308-0477
<b>Email:</b>	chris.richardson@tn.gov

**Revision Type (check all that apply):**

☐ Amendment  
☒ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

<b>Chapter Number</b>	<b>Chapter Title</b>
1660-04	Non-Motorized Vessels
<b>Chapter Number</b>	<b>Chapter Title</b>
1660-04-01	Rules and Regulations Governing Commercial Non-Motorized Vessel Outfitters
<b>Rule Number</b>	<b>Rule Title</b>
1660-04-01-.01	Purpose
1660-04-01-.02	Definitions
1660-04-01-.03	Operating Requirements
1660-04-01-.04	Application to the Tennessee Wildlife Resources Agency
1660-04-01-.05	Vessel Requirements for Commercial Outfitters
1660-04-01-.06	Safety Requirements and Procedures
1660-04-01-.07	Transportation
1660-04-01-.08	Nonrenewal of Permit
<b>Chapter Number</b>	<b>Chapter Title</b>
1660-04-02	Rules and Regulations Governing Permit and Access Fees
<b>Rule Number</b>	<b>Rule Title</b>
1660-04-02-.01	Definitions
1660-04-02-.02	General Permit Fee
1660-04-02-.03	Vessel Inventory Fee

1660-04-02-.04	Public Access Launch Fee
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New Rule

**RULES  
OF  
TENNESSEE WILDLIFE RESOURCES AGENCY  
NON-MOTORIZED VESSELS**

**CHAPTER 1660-04-01  
RULES AND REGULATIONS GOVERNING COMMERCIAL NON-MOTORIZED VESSEL OUTFITTERS**

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1660-04-01-.04	Application to the Tennessee Wildlife Resources Agency		
1660-04-01-.05	Vessel Requirements for Commercial Outfitters		
1660-04-01-.06	Safety Requirements and Procedures		

**1660-04-01-.01 PURPOSE**

- (1) To provide the Tennessee Wildlife Resources Agency an effective system of regulation for commercial outfitters that lease or rent non-motorized vessels to individuals for recreational use on the waters of Tennessee
- (2) To preserve the recreational value of Tennessee rivers and lakes by promoting the protection of these natural resources.
- (3) To preserve the integrity of public access to Tennessee rivers and lakes for the benefit of recreational boaters and anglers.
- (4) To promote the maximum safety of the public.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

**1660-04-01-.02 DEFINITIONS**

- (1) "Agency" and "TWRA" mean the Tennessee Wildlife Resources Agency.
- (2) "Non-motorized vessel" (hereinafter referred to as "NMV") means canoes, kayaks, stand up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars.
- (3) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.
- (4) "Commercial NMV outfitter" means any entity (e.g., business, joint venture, individual, etc.) that leases or rents NMV for non-commercial use by the public on the waters of Tennessee, except it does not mean:
  - (a) A commercial outfitter operating pursuant to and in possession of a permit issued by the United States Forest Service on waters in and adjacent to the Cherokee National Forest; or
  - (b) A commercial outfitter operating at a lake or pond wholly contained within the boundaries of any property owned or operated by the Tennessee Department of Environment and Conservation or the Agency.

- (5) "Life jacket" means a personal flotation device approved by the Commandant of the Coast Guard under 46 CFR part 160.
- (6) "Public access area" means a government-owned area open to the public that grants the public access to the waters of Tennessee such as a boat ramp or canoe/kayak steps.
- (7) "Accident" means any occurrence in which the operator of a commercial NMV requires medical attention beyond basic first aid.
- (8) "Water rescue" means any occurrence in which, absent intervention, an occupant or operator of a commercial NMV could suffer serious bodily injury or death.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.03 OPERATING REQUIREMENTS**

- (1) A commercial NMV outfitter must possess a valid operating permit issued by the TWRA.
- (2) A commercial NMV outfitter must maintain the following records:
  - (a) Number of NMV leased or rented each day;
  - (b) Number of accidents and/or casualties involving the use of a commercial outfitter's NMV; and
  - (c) Number of water rescues each day involving a commercial NMV outfitter's vessel.
- (3) Records maintained by commercial NMV outfitters pertaining to these rules are subject to inspection by TWRA personnel. Commercial NMV outfitters shall provide the TWRA with any such requested information.
- (4) A commercial NMV outfitter shall not lease or rent to an individual less than 16 years of age unless the individual is supervised by someone at least 18 years of age.
- (5) A commercial NMV outfitter shall not cause any environmental damage to the river and/or river corridor and shall accomplish prompt clean-up and policing of litter generated by employees or guests.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.04 APPLICATION TO THE TENNESSEE WILDLIFE RESOURCES AGENCY**

- (1) Beginning October 1, 2019, a commercial NMV outfitter shall apply to the TWRA for an operating permit through the appropriate application form provided by the TWRA.
- (2) An operating permit is effective from January 1 through December 31 of each year.
- (3) All operating permit renewals shall be filed with the TWRA between October 1 and December 15.
- (4) Each application shall include, among other information, the following information for each applicant:
  - (a) The number of vessels owned by the commercial NMV outfitter that are available for lease or rent;
  - (b) The waterways of the state on which the applicant operates, if known;
  - (c) Any public access areas utilized by the applicant;

- (d) Months of operation;
  - (e) Tennessee Secretary of State control number, if applicable;
  - (f) A copy of the applicant's business license;
  - (g) A copy of the applicant's Department of Revenue Certificate of Registration;
  - (h) Proof of insurance; and
  - (i) Designated representative for the applicant.
- (5) Operating permits may be transferred upon written notification to the TWRA of the date of transfer, the name of the new business owner, and the new designated representative. Transfer notifications must be submitted before the date of transfer.
  - (6) Each applicant must pay the permit fee established in Tenn. Comp. R. & Regs. 1660-04-02-.01.
  - (7) For each NMV owned by the applicant, the applicant shall purchase a commercial NMV decal from the TWRA subject to the decal fee established in Tenn. Comp. R. & Regs. 1660-04-02-.02.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.05 VESSEL REQUIREMENTS FOR COMMERCIAL OUTFITTERS**

- (1) Each NMV, except a stand up paddle board, operated by a commercial outfitter must clearly and conspicuously display the outfitter's name on both exterior sides of the NMV. If the outfitter has a uniquely identifying logo, then the outfitter's logo may be displayed instead of the outfitter's name. The name and/or logo must be visible above the water line when the NMV is in the water.
- (2) Each stand up paddle board operated by a commercial outfitter must display the outfitter's name and/or uniquely identifying logo on the top or side of the paddle board, but the name and/or logo is not required to be visible above the water line when the paddle board is in the water.
- (3) Each craft must be maintained in a reasonable operating condition for its intended use. Each outfitter shall inspect its craft after each trip for damage or wear which materially affect the structural integrity of the craft. If such damage is found, repairs must be made to the craft before it can be used for commercial NMV purposes.
- (4) All NMV used in commercial NMV operations shall be subject to inspection by TWRA personnel.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.06 SAFETY REQUIREMENTS AND PROCEDURES**

- (1) Commercial NMV outfitters must provide life jackets to occupants of NMVs in accordance with United States Coast Guard regulations.
- (2) If a canoe, kayak, or stand up paddle board is leased or rented, then the NMV must be equipped with the appropriate paddles and/or oars for the particular NMV and its occupants.
- (3) If a canoe, kayak or stand up paddle board is leased or rented, then the NMV must be equipped with a life jacket of the appropriate size for the person on the NMV.
- (4) If a person on board the NMV is 12 years old or younger, then that person must wear a life jacket at all times while on the NMV.

- (5) Commercial NMV outfitters must maintain life jackets and paddles/oars in a good and serviceable condition for their intended use. Each commercial NMV outfitter shall inspect its life jackets, paddles, and oars after each trip for damage which materially affects the structural integrity of the life jacket, paddle, or oar. If such damage is found on a paddle or oar, repairs must be made before it can be used for commercial NMV purposes. If damage is found on a life jacket, the life jacket must be serviced or disposed of in accordance with Tenn. Comp. R. & Regs. 1660-02-03-.03.
- (6) All life jackets, paddles, and oars used in commercial NMV operations shall be subject to inspection by TWRA personnel.
- (7) Each commercial NMV outfitter is encouraged to equip each NMV leased or rented with a litter bag. Litter bags will be provided to commercial NMV outfitters by the TWRA upon request.
- (8) Commercial NMV outfitters shall conduct a safety seminar for all passengers and strive to include at least the following topics:
  - (a) Description of the waterway including, but not limited to, and any generation issues, shoals, shallows, riffles, or known obstructions;
  - (b) Equipment;
  - (c) Paddling safety;
  - (d) Swimming in moving water;
  - (e) Relevant safe boating laws;
  - (f) River etiquette; and
  - (g) Trespass concerns.
- (9) All safety instruction must be conducted with materials or methods approved by the TWRA.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.07 TRANSPORTATION**

- (1) All parking by commercial NMV outfitters and their customers at public access areas controlled by the TWRA shall be restricted to areas approved by the TWRA. This provision shall not apply to customers of commercial NMV outfitters utilizing private NMVs.
- (2) Commercial NMV outfitters shall comply with the Department of Safety Rules and Regulations regarding the transportation of passengers.
- (3) Commercial NMV outfitters shall comply with the Department of Safety Rules and Regulations regarding commercial vehicles.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-01-.08 NONRENEWAL OF PERMIT**

- (1) A commercial NMV outfitter's operating permit may not be renewed for:
  - (a) Failure to pay the requisite fees;
  - (b) Failure to provide the necessary application information;
  - (c) Failure to maintain the requisite information and documentation; or

- (d) Failure to produce and/or allow for the inspection of any information requested by the TWRA.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

**RULES  
OF  
TENNESSEE WILDLIFE RESOURCES AGENCY  
NON-MOTORIZED VESSELS**

**CHAPTER 1660-04-02  
RULES AND REGULATIONS GOVERNING PERMIT AND ACCESS FEES**

**TABLE OF CONTENTS**

1660-04-02-.01	Definitions
1660-04-02-.02	General Permit Fee
1660-04-02-.03	Vessel Inventory Fee
1660-04-02-.04	Public Access Launch Fee

**1660-04-02-.01 DEFINITIONS**

- (1) "Agency" and "TWRA" mean the Tennessee Wildlife Resources Agency.
- (2) "Non-motorized vessel" (hereinafter referred to as "NMV") means canoes, kayaks, stand up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars.
- (3) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.
- (4) "Commercial NMV outfitter" means any entity (e.g., business, joint venture, individual, etc.) that leases or rents NMV for non-commercial use by the public on the waters of Tennessee, except it does not mean:
  - (a) A commercial outfitter operating pursuant to and in possession of a permit issued by the United States Forest Service on waters in and adjacent to the Cherokee National Forest; or
  - (b) A commercial outfitter operating at a lake or pond wholly contained within the boundaries of any property owned or operated by the Tennessee Department of Environment and Conservation or the Agency.
- (5) "Launch" means the act of putting a non-motorized vessel into the waters of Tennessee or taking a non-motorized vessel out of the waters of Tennessee.
- (6) "Public access area" means a government-owned area open to the public that grants the public access to the waters of Tennessee such as a boat ramp or canoe/kayak steps.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

**1660-04-02-.02 GENERAL PERMIT FEE**

- (1) Each commercial NMV outfitter shall pay a general permit fee of \$244.
- (2) The general permit fee shall be paid to the Agency upon filing an application for an operating permit.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-02.03 VESSEL INVENTORY FEE**

- (1) Every commercial NMV outfitter must pay an inventory fee for each NMV owned by the outfitter that is available for lease or rent. The inventory fee shall be assessed as follows:
  - (a) Commercial NMVs, except tubes, shall be assessed a \$100 fee per 50 NMVs in inventory; and
  - (b) Tubes shall be assessed a \$100 fee per 100 tubes in inventory.

**Authority:** T.C.A. §§ 69-9-227 and 70-1-206.

#### **1660-04-02.04 PUBLIC ACCESS LAUNCH FEE**

- (1) A commercial NMV outfitter must pay a public access launch fee for each NMV launched at a public access area. NMVs launched multiple times in one calendar day are subject to the public access launch fee for each launch.
- (2) The public access launch fee is \$1.00 per launch.
- (3) Any fee paid by a commercial NMV outfitter to a governmental entity for the use of and/or access to the waters of Tennessee shall be credited dollar-for-dollar against any public access launch fees levied by the TWRA against the commercial NMV outfitter.
- (4) The public access launch fees owed by a commercial NMV outfitter shall be remitted to the TWRA annually no later than December 15.

**Authority:** T.C.A. §§ 69-9-227; 70-2-225; and 70-1-206.



\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chad Baker					
Angie Box					
Jeff Cook					
Bill Cox					
Dennis Gardner					
Kurt Holbert					
Connie King					
Brian McLerran					
Tony Sanders					
James Stroud					
Bill Swan					
Kent Woods					
Jamie Woodson					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Wildlife Commission on \_\_\_\_\_ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: \_\_\_\_\_ (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). \_\_\_\_\_ (mm/dd/yy)

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

Agency/Board/Commission: Tennessee Wildlife Resources Agency

Rule Chapter Number(s): 1660-04-01 and 1660-04-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

☐ There were no public comments to the above-described rule.

☐ Attached hereto are the responses to public comments.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

**There are no businesses, small or otherwise, that would bear the cost of or directly benefit from the proposed rule.**

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

**The Agency does not believe that the rule amendment/repeal will have any impact on local governments.**

### Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Pursuant to Tenn. Code Ann. § 69-9-227, these rules establish a framework for regulating commercially rented/leased nonmotorized vessels on the waters of Tennessee.

Comment [TM1]: You guys may want to tweak this.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There are no federal or state laws mandating this rule repeal or amendment.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Any business renting or leasing nonmotorized vessels will be affected by these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

No Attorney General Opinion or judicial ruling directly relating to the rule has been identified.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The proposed rule will increase the Agency's revenue by approximately \$0.

Comment [TM2]: Need to estimate a number to put here.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Chris Richardson, TWRA, PO Box 40747, Nashville, TN 37204; 615-308-0477; Chris.Richardson@tn.gov

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Richardson, Asst. Director, TWRA, will explain the rule at the scheduled meeting of the Government Operations Committee

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Chris Richardson, TWRA, PO Box 40747, Nashville, TN 37204; 615-308-0477; Chris.Richardson@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.